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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/826,559	
	Filing Date	April 4, 2001	
	First Named Inventor	Bryan HIROMOTO	
	Art Unit	1654 ✓	
	Examiner Name	M. Meller	
Total Number of Pages in This Submission	9	Attorney Docket Number	437472000200

ENCLOSURES (check all that apply)		
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	MORRISON & FOERSTER LLP Kate H. Murashige - 29,959
Signature	<i>Kate H. Murashige</i>
Date	September 12, 2003

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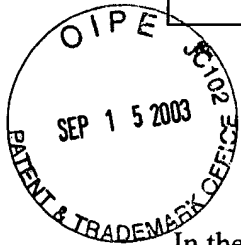
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*Tami M. Procopio*  
Tami M. Procopio



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Bryan HIROMOTO

Serial No.: 09/826,559

Filing Date: 4 April 2001

For: IMPROVED PESTICIDE  
MICROEMULSION AND  
DISPERSANT/PENETRANT  
FORMULATIONS

Examiner: Michael V. Meller

Group Art Unit: 1654

**EXPEDITED PROCEDURE --**  
**EXAMINING GROUP 1654**

AMENDMENT UNDER 37 C.F.R. § 1.116

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Dear Sir:

This is in response to a final Office action herein mailed 12 August 2003, time for response to which was set to expire 12 November 2003. This response is filed prior to the two-month early response date. Applicants appreciate the thoughtful consideration given their undersigned representative by the Examiner in a telephone interview on 4 September 2003. The discussion centered on the relevance of the properties of the claimed compositions to their patentability and the specific phrase "which microemulsion has a turbidity less than 3 NTU" as a

limitation to the claims. All the claims, claims 1-13, 15-17 and 49-50 were rejected and the rejection was made final. Careful consideration has been given to the grounds for rejection and to the discussion at the interview and the following discussion is believed responsive.

Reconsideration is respectfully requested.

### REMARKS

As the application itself makes clear, the claimed compositions are effective pesticides. They are applied as clear aqueous formulations where the degree of clarity is actually quantitated as being  $<3$  NTU. NTU are standard turbidity units as explained in the specification. When applied as a clear aqueous microemulsion, the invention compositions are able to protect agricultural crops, for example, from pest infestation.

#### The Rejection Under 35 U.S.C. § 112, Paragraph 2

All claims were rejected as assertedly unclear with regard to the phrase "clear aqueous microemulsion of a complex." Respectfully, applicants do not understand the rationale for asserted lack of clarity. The named ingredients (a)-(d) are associated intimately with each other so as to form what could be properly considered a "complex" – *i.e.*, where the components are very closely associated although not covalently bound to each other. The complex is contained in a composition which, in total, is a clear aqueous microemulsion. It is aqueous because the continuous phase is water or a water solution such as a buffer, it is a "microemulsion" because the complex materials are not technically dissolved in the water, and it is clear because it has a turbidity of  $<3$  NTU. If the phrase remains unclear after the present explanation, a telephone call to the undersigned is requested so that the basis for this rejection can further be elaborated.